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C O N F I D E N T I A L SECTION 01 OF 02 KUWAIT 005293

SIPDIS

STATE FOR D, NEA/FO, NEA/ARP, NEA/NGA, IO/UNP  
GENEVA FOR STONECIPHER  
LONDON FOR GOLDRICH  
PARIS FOR OFRIEL

E.O. 12958: DECL: 12/09/2012  
TAGS: PREL KPOW IZ KU ICRC  
SUBJECT: (C) GULF WAR MISSING: PREPARING FOR UPCOMING TPC  
MEETING

REF: KUWAIT 5262 AND PREVIOUS

Classified By: AMBASSADOR RICHARD H. JONES; REASON 1.5 (D)

11. (U) This is a corrected version of KUWAIT 5292, adding dropped text. Please disregard KUWAIT 5292 in favor of this message.

¶2. Action Request: see paragraph 8.

**13. (C) SUMMARY:** ICRC seeks advance approval of draft Minutes of the upcoming TPC meeting (date still TBD). We seek Department's concurrence with recommended wording, and guidance on pressing the Speicher case. END SUMMARY.

14. (C) Draft Minutes: ICRC has circulated to the coalition allies (US, UK, France, Kuwait, Saudi Arabia) draft Minutes of the upcoming extraordinary meeting of the Tripartite Commission (TPC - see ref tel). Its intent is to ensure that there are no surprises in Geneva, by getting all parties to agree in advance on the outcome of the meeting, and by strictly limiting the agenda (for instance, prepared statements are not/not anticipated). As soon as the allies agree, ICRC will share the draft with Iraq. The draft text is as follows:

**BEGIN TEXT:**

DRAFT  
Minutes of the 24th Tripartite Commission Meeting  
Geneva, xy December 2002

11. The Tripartite Commission met on xy December 2002. It was attended by all its members.

12. The Tripartite Commission agreed to extend the mandate of the Technical Sub-Committee until the next meeting of the Tripartite Commission.

13. The Tripartite Commission formally endorsed the following:

To suspend the Technical Sub-Committee's quorum rule No 8 for a period of four (4) months as permitted by rule No 16 in order to allow meetings between Iraq and any other Tripartite Commission member to address cases previously discussed in the Tripartite Commission in the presence of a third Tripartite Commission member mutually agreed between Iraq and the other party.

¶4. The Tripartite Commission decided to hold its next meeting in Geneva on xy April, 2003.

**State of Kuwait**      **United States of America**

END TEXT.

15. (C) Kuwaiti Addition: Kuwait wants to insert a fifth point stipulating that the countries that would meet under the new TSC dispensation would be Kuwait and Iraq, in the presence of Saudi Arabia. Dr. Ibrahim al-Shaheen, Vice Chairman of the National Committee for Missing and POW Affairs (NCMPA), told the Ambassador December 9 that the GOK is concerned that not specifying an agreed formulation for the TSC during the TPC would throw the question into a round of time-consuming bilateral discussions which Iraq would no doubt seek to exploit for its benefit. In addition, putting this in the TPC Minutes would make it doubly clear that the Iraq-Kuwait-Saudi meetings came under the TPC umbrella. From our perspective, however, if not worded carefully, the Kuwaiti formulation might inadvertently preclude other possible compositions of the TSC, such as US and Iraq in the presence of Kuwait (or any other third TPC member acceptable to Iraq). We have informed ICRC ad referendum that we can live with the fifth point provided it is worded as follows: "The initial meetings of the Technical Sub-Committee will be

limited to Iraq, Kuwait and Saudi Arabia." The key word there is "initial," which preserves our equities.

16. (C) Background and Comment: The TPC, including its TSC, constitutes the internationally-recognized apolitical forum for direct discussion among the parties to the Gulf War of issues related to POWs and missing persons. UNSCR 1284 specifically called on Iraq to resume cooperation with the TPC. Iraq has boycotted the Commission for the last four years, allegedly in protest at US and UK participation. However, recently it has tried to tempt both Kuwait and the US into addressing such issues bilaterally, i.e. outside the TPC framework. Last spring, the Iraqis issued a patently cynical invitation to the USG to come to Baghdad to discuss the case of missing US Naval aviator Captain Michael Scott Speicher. The USG did not take the bait. Now, it appears that Iraq may be willing to re-engage - at least with some TPC members - within the TPC framework. That was the intent of the proposed rule suspension. Given Iraq's past pronouncements, all expectations are that it will agree only to meet with Kuwait and Saudi Arabia, but the wording of the proposed rule suspension was intentionally designed to leave open the possibility of other TSC permutations, including a US-Iraq-third country meeting on the Speicher case. At the upcoming extraordinary meeting of the TPC, the US delegation may want to propose such a session. If so, it will need to be prepared for the unlikely event that Iraq might suddenly profess readiness to engage in-depth on Speicher on the spot.

17. (C) Dates:

1A. PolChief asked ICRC Regional Delegate Michel Meyer why, according to the draft Minutes, the TPC meeting set for March 6-7 was being put off to April. Meyer explained that April would allow a full four months to test the success of the rule suspension, but he took the points that:

- (i) it is not necessary for the TPC to wait the full four months before deciding whether to extend the rule suspension, and
- (ii) if the next TPC meeting is not until April, it should be earlier in the month, i.e. not quite four months from the date of the rule suspension, to keep the suspension from lapsing.

1B. ICRC has still not proposed a specific date for the upcoming extraordinary meeting, but we expect it to be in the December 14-20 timeframe. We will advise USMission Geneva immediately when we know the date, in order to secure hotel accommodations. Regarding the spring 2003 TPC meeting, we recommend holding onto the reservations made for March 6-7; we will advise as soon as any new dates for that meeting are confirmed.

18. (C) ACTION REQUESTED: Department, in consultation with OSD/DPMO, is requested to advise as soon as possible (a) whether the draft Minutes as per paragraphs 4 and 5 above are acceptable to the USG; (b) whether we should push in Geneva for a meeting with the Iraqis in the revised TSC context, and how hard (also, should we flag this now in our comments on the draft Minutes?); (c) if the Iraqis refuse to meet with us, whether we should object to the proposed rule change; (d) if the Iraqis are amenable and leave the choice to us, which if any country we would prefer as the third party. We would be most grateful for an answer to (a) by our oob Tuesday December 10, as ICRC is keen to finalize the draft Minutes and present them to Iraq.  
JONES